

of New York, where he helped protect New Yorkers by prosecuting cases involving organized crime, international narcotics trafficking, and violent crimes. I urge the Senate to vote in full support of Mr. Broderick's nomination.

Mr. DURBIN. Mr. President, I rise to speak about the nomination of Valerie Caproni to serve as a judge on the U.S. District Court for the Southern District of New York.

When the Senate Judiciary Committee considered Ms. Caproni's nomination on June 13 and reported her nomination out of committee, I asked to be recorded as a "pass" on the vote. I did so because I wanted to meet in person with Ms. Caproni to discuss matters that she worked on when she served as general counsel of the Federal Bureau of Investigation from 2003 to 2011.

During Ms. Caproni's tenure, the FBI adopted controversial new investigative policies and implemented sweeping new surveillance authorities granted by the USA PATRIOT Act.

For example, revised Attorney General's guidelines for FBI investigations and the FBI's Domestic Investigations and Operations Guide allow the FBI to conduct "assessments" using intrusive surveillance techniques on innocent Americans with no indication of wrongdoing or other factual predicate. And while the Justice Department's "Guidance Regarding the Use of Race by Federal Law Enforcement Agencies" prohibits the use of profiling by Federal law enforcement in "traditional law enforcement activities," this ban does not apply to profiling based on religion and national origin, and it does not apply to national security and border security investigations.

The Justice Department's Inspector General concluded that the FBI was guilty of "widespread and serious misuse" of the National Security Letter authority when Ms. Caproni was general counsel. Also during Ms. Caproni's tenure, the FBI interpreted section 215 of the PATRIOT Act to permit the collection of noncontent "metadata" on every phone call of every American, including the numbers of both callers and the time and duration of the call.

As general counsel, Ms. Caproni would have been the final word in the FBI on the legality of these and all other Bureau activities.

As a result of my concerns about Ms. Caproni's involvement in these activities, I asked for her commitment, if confirmed, to recuse herself from matters on which she had been involved or provided legal advice while working for the FBI or on which her impartiality might reasonably be questioned.

I met in my office with Ms. Caproni on June 25, and on July 8, Ms. Caproni sent me a letter memorializing her commitment to recuse herself from such matters. I appreciated receiving this letter, and I ask unanimous consent that the letter be printed in the RECORD.

In light of our meeting and Ms. Caproni's commitments to me, I will

not oppose her nomination to the district court.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Washington, DC, July 8, 2013.

Hon. RICHARD DURBIN,
Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR DURBIN: Thank you for the opportunity to meet with you to discuss my nomination as a judge for the United States District Court for the Southern District of New York. It was a pleasure to meet with you and your staff.

As I indicated in my Senate Judiciary Committee Questionnaire, if confirmed, I would follow the Code of Conduct for United States Judges, as well as any other applicable ethics rules or federal statutes to resolve any potential conflicts of interest. As I further stated, if I had personal or supervisory involvement in a matter while at the FBI or Northrop Grumman, I would not participate in it as a judge.

To follow up on our conversation and to be more specific, as required by 28 U.S.C. §455, I would recuse myself from any case in which my impartiality could reasonably be questioned. I would certainly recuse myself if I were presented with a case that would require me to rule on the legality of a national security program as to which I provided legal advice while I was a government employee, unless there were controlling precedent already in place regarding such a program. If such precedent did exist, I nonetheless would consider recusal on a case-by-case basis, carefully considering any arguments and consulting with appropriate experts on judicial ethics and, if appropriate, my colleagues. In those cases in which I did not recuse, I would apply controlling law.

Please let me know if you have any other questions or matters you would like to discuss.

Very truly yours,

VALERIE CAPRONI.

Mr. DURBIN. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARDIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARDIN. Mr. President, I yield back the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the nomination of Valerie E. Caproni, of the District of Columbia, to be United States District Judge for the Southern District of New York?

Mr. CARDIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Virginia (Mr. WARNER) are necessarily absent.

I further announce that if present and voting, the Senator from Louisiana (Ms. LANDRIEU) would vote "yea."

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Tennessee (Mr. ALEXANDER).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

The PRESIDING OFFICER (Mr. DONNELLY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 24, as follows:

[Rollcall Vote No. 201 Ex.]

YEAS—73

Baldwin	Gillibrand	Murray
Baucus	Graham	Nelson
Begich	Hagan	Portman
Bennet	Harkin	Pryor
Blumenthal	Hatch	Reed
Boxer	Heinrich	Reid
Brown	Heitkamp	Rockefeller
Burr	Hirono	Sanders
Cantwell	Isakson	Schatz
Cardin	Johanns	Schumer
Carper	Johnson (SD)	Sessions
Casey	Kaine	Shaheen
Chambliss	King	Stabenow
Chiesa	Klobuchar	Tester
Coats	Leahy	Thune
Collins	Levin	Toomey
Coons	Manchin	Udall (CO)
Corker	Markey	Udall (NM)
Cornyn	McCain	Vitter
Donnelly	McCaskill	Warren
Durbin	McConnell	Whitehouse
Feinstein	Menendez	Wicker
Fischer	Mikulski	Wyden
Flake	Murkowski	
Franken	Murphy	

NAYS—24

Ayotte	Enzi	Merkley
Barrasso	Grassley	Moran
Blunt	Heller	Paul
Boozman	Hoeben	Risch
Coburn	Inhofe	Roberts
Cochran	Johnson (WI)	Rubio
Crapo	Kirk	Scott
Cruz	Lee	Shelby

NOT VOTING—3

Alexander	Landrieu	Warner
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The nomination was confirmed.

VOTE ON VERNON S. BRODERICK

The PRESIDING OFFICER. If there is no further debate, the question is, Will the Senate advise and consent to the nomination of Vernon S. Broderick, of New York, to be United States District Judge for the Southern District of New York?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The majority leader is recognized.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we proceed to a period of morning business with Senators allowed to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.